



MANAGEMENT DERAILMENT... GETTING MANAGERS BACK ON TRACK

SOURCE: MOUNTAIN STATES EMPLOYERS COUNCIL, INC. (USED WITH PERMISSION)

How many times has it been said about a manager, "He's great technically, but he's abrasive with staff," or "She was fabulous in her previous position but can't seem to make the transition into management." Cries like these suggest that a manager is in danger of derailing. Management derailment surfaces as deficiencies in interpersonal skills, transition management, team leadership, and style flexibility. It is estimated that up to 66 percent of executives are at risk of derailment (Bernard Kessler, 1992).

The top reasons cited for management derailment in descending order are as follows (Center for Creative Leadership, 2003):

1. Problems with interpersonal relationships
2. Inability or unwillingness to change or adapt
3. Failure to hire, build, and lead a team

4. Failure to meet business objectives
5. Lack of broad functional expertise

Derailment not only poses serious problems for the manager, but it also creates a dangerous ripple effect. In *First Break All the Rules*, Gallop Poll research suggests that the manager, even more than pay, benefits, or perks, is the critical element in building a strong workplace. Because managers are pervasive in their employees' work worlds, they have the greatest impact on productivity, profitability, customer satisfaction, and retention. When derailed, managers dramatically contribute to decreased productivity, eroding morale, increased turnover, and waning customer service. Even if a manager is let go, it costs the organization approximately 16 to 18 months of the manager's salary to replace him or her.

Sadly, management often goes unacknowledged due to lack of awareness or inability to deal with these issues. When intervention does occur, it often results in moving the manager into a "dead end" or "placeholder"

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MEMBERSHIP UPDATE

As of September 1, 2003, NACM membership was 2,314 strong. If you enjoy the benefits of NACM and have not renewed your membership, please do so. If you know of someone who would enjoy the benefits, recommend a new member today! Regular membership in NACM is open to anyone serving in any court management, consulting, educational, or research capacity. Additional membership categories include associate, student, honorary, retired, and sustaining members. **Remember! You get one year of free membership dues for bringing in 10 new members!** You can obtain more membership information by contacting the National Association for Court Management, c/o NCSC, 300 Newport Avenue, Williamsburg, VA 23185, Attention: Association Services, or call (757) 259-1841. You can also visit the NACM Web site at www.nacm-net.org. ♦

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LEARNING HOW TO BE ASSERTIVE

SOURCE: *Briefly* – 17th JUDICIAL DISTRICT, NY, April 2000
(ADAPTED FROM IVY SEA ONLINE WEB SITE)

One of the trickier interpersonal lines to walk is the one between assertiveness and aggression. While assertiveness helps build relationships and improve self image, aggression can be destructive and simply rude. The good news is that assertiveness, like most constructive traits, can be learned. Here are practical, day-to-day tools that can help you become more assertive.

1. **Examine your motivations.** Take a moment to identify your intentions for sharing, or not sharing, a thought. Often our desire to please others can get in the way of our speaking up.
2. **Be more specific.** The fewer assumptions we make or the fewer mixed messages we send, the better able we are to assert our needs and wants in the workplace. For example, instead of saying something like, “I need that right away,” specify exactly when you need something from a colleague.
3. **Ask for more information.** Unless we have all the information we need, we won’t be able to make good decisions. If you think a boss is making an unreasonable request, try asking for clarification. That way you can understand the request more fully and have the confidence to say “yes” or “no.”
4. **Take ownership of your message.** Use “I” phrases instead of trying to pawn off responsibility to someone else. Say, for example, “I need you to have the report on my desk by the end of the day,” instead of “The report is needed today.” ♦

RURAL COURTS GRANT AWARDED BY STATE JUSTICE INSTITUTE

By: **LAWRENCE MYERS**, NACM PRESIDENT

The State Justice Institute (SJI) has awarded a grant to the Justice Management Institute (JMI) for a project designed to strengthen the ability of the state court systems and rural court leaders to improve court operations in rural areas. The project will be conducted in cooperation with NACM and the National Judicial College.

The centerpiece of the project will be a prototype three-day seminar designed for approximately 20 rural court judges and rural court managers who have leadership roles in their states and/or in national organizations. The seminar will identify and explore the unique problems faced by rural courts, will enable participants to share information about promising innovations and exemplary programs, and will focus on developing strategies and curriculum materials that national and state organizations can use in the future to provide effective education and technical assistance for rural courts. Among the strategies to be pursued is the development of a national network of rural court leaders — judges and managers — who can be resources for each other in improving court operations and strengthening the administration of justice in rural areas.

If you are interested in serving on the advisory board for the project or in being considered as a prospective participant at the seminar, please send your resume and a letter of support from your judge to Barry Mahoney, the Justice Management Institute, 1900 Grant Street, Suite 630, Denver, CO 80203. ♦

Why Not Be More Imaginative About Fringe Benefits?

By: **Alex Aikman**

SOURCE: *Thinking Out Loud*, Issue No. 8, June 2003

Several recent articles have stimulated my thinking. In the May 20, 2002, *Business Week* article entitled "Too Many Workers? Not for Long," Aaron Bernstein states:

... a looming crunch ... will hit as huge numbers of boomers retire and fewer new workers fill the pipeline. With more than two-thirds of women already working and with immigration at record highs, the growth of the labor force will remain at a crawl for decades to come....

...the demographic challenges ahead are inescapable: There will be a sharp slowdown in the number of people entering the workforce.

...women coming out of school are entering the workforce at a lower rate. To lure more of them into a job, employers may have to offer everything from more flexible hours and part-time work to on-site daycare and sick-child backup care.

...the Treasury Department ... has been doling out retention bonuses of up to 25 percent of pay to hang on to its techies.

AND, quoting David T. Ellwood, a Harvard economist: *If you believe that technological change isn't going to slow down, we're not going to have enough college-educated workers to meet the demand."*

A late-2002 article on the ABCNEWS.com Web site discussed, "How to Deal With Injured or Sick Employees." The article contrasts how sports teams treat injured athletes — substantial assistance in recovery and sufficient time to heal — with how most employers handle sick or injured employees: urge them to work sick, come back early, and limit or do not offer "wellness" programs. Owners of sports teams understand their athletes are their most important asset; many employers think employees are fungible and/or that they cannot "afford" to change current benefit programs.

In California and, I suspect, in other states, laws preclude using state funds for the "personal benefit" of individual citizens. The California Attorney General's Office issued an imaginative legal opinion sanctioning employee recognition awards so long as the value of each award was small (under \$50), because there was a legitimate governmental interest in such programs. The opinion was "judicious" and appropriate, but it left little room for more substantial efforts.

How can courts meet the pressures indicated in the articles cited above for qualified staff while remaining responsible stewards of public funds? Consider the following:

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A Word From Your Editor:

Where did the summer go? Henry Kissinger once said: "Next week there can't be any crisis. My schedule is already full."

I'm sure many of us have felt this way or have even said the exact words. I hope you will take a few moments in your already "full" schedule to read the articles in this issue of *Court Communiqué*. Many of the articles are timely in that they address issues we all face each day. Pause, reflect, and make a difference!

Please continue your member support to *Court Communiqué* by submitting articles, materials, and/or suggestion for future publications. Don't hesitate to send information to me at ceucker@occourts.org; your input, feedback, inter-

ests, and information is valued and very important. Faxes and mail are also always welcomed.

Looking forward to hearing from all of you!

Chelle

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By **DON K. FERGUSON**

PRONOUNCING ING ON THE END OF WORDS IS MORE FORMAL

-ing Endings

Those who pronounce words ending with *ing* as if they end with *in* – “*runnin’*,” “*flyin’*,” “*workin’*” – are often said to be “dropping the *g*.” But no actual *g* sound is involved.

Sometimes the letter *g* is pronounced like the first letter in *gee whiz* and sometimes it is a hard *g* such as the first *g* in *garage*. But neither of these is the same sound as is in the suffix *ing*. There is more of an *ung* sound used for the *ng* portion of the *ing*.

Random House Dictionary says many speakers use both pronunciations, *ing* and *in*, depending on the speed at which they speak and the level of formality desired, with the *ing* pronunciation being considered more formal.

Linguists say studies show the *in* ending is used more by men than by women. They say this probably has some relationship with women traditionally having concern for their images, and this attribute influences their speech habits, causing them to choose the more formal *ing*.

GREASY CAN BE PRONOUNCED GRE-SEE OR GRE-ZEE

Greasy

If you say “greasy” with a *z* sound and hear someone else pronounce it as if it were spelled *gree-see*, do you wonder if you are the one who’s wrong?

Greasy is almost always pronounced with the *z* sound in the South, but you hear it more often with the *see* sound in New England, New York, and the Great Lakes area.

It is one of those works whose pronunciation depends on where you live, sort of like *pecan*, which has three pronunciations – *pe-kahn*, *pee-CAN*, and *PEE-can*.

Copyright 1995. **Don K. Ferguson** is the author of the book *Grammar Gremlins*, published by Glenbridge Publishing Ltd. It is available at bookstores or may be ordered by telephone, (720) 870-8381. Readers may direct questions and comments to Don at P.O. Box 2121 Knoxville, TN 37901, or e-mail gramgrem@esper.com. ◆

MANAGEMENT SUPPORT

SOURCE: (ADAPTATION FROM THE SOURCE: Bill Tredwell, MANAGING DIRECTOR OF HAY RESOURCES DIRECT AND SENIOR CONSULTANT, THE HAY GROUP, BOSTON, MASSACHUSETTS, JUNE 14, 2002)

Have you ever been part of a team composed of a highly motivated subordinate and a supervisor who tends to micromanage, so the subordinate feels restrained and controlled and as such is losing motivation? In a situation like this, both may see the potential value of their working together, but there is friction. Apart from dissolving the team, what can be done to make them function more cooperatively?

Highly motivated workers tend to be workers who possess a high achievement drive — a need for personal mastery and a drive for self-improvement. People with this high achievement drive (first defined by psychologist David McClelland) function best when the following conditions are met:

- They are given a mission (or assignment) where they have clarity concerning the underlying rationale — how this mission/task connects to the “big picture.”
- They are given a definition of expected outcomes (standards of performance).
- They are given room to act or responsibility so that they feel a sense of ownership over the task and the outcome.
- They receive feedback or rewards based on how well they do.

Task-focused micromanagers often lack the patience to provide the required parameters and often are reluctant to provide subordinates room to act to take ownership of the activity. When this happens, the subordinate ends up feeling under-managed (they feel like just another set of hands rather than a true contributor) and, unless they become engaged, they will tend to become less motivated and stop developing their capability.

The lesson for this manager is to take the time to scope out the projected mission/task for the employee. Give the person some room to act. This does not mean abdication of responsibility but does mean letting the employee make a real contribution and not tweaking all of the employee’s work so that it becomes the boss’s work. The manager also must provide feedback. Ultimately this all goes back to that old metaphor: “Give a person a fish and he eats. Teach him to fish and he learns to feed himself.” ◆



CONGRATULATIONS TO THESE COURT MANAGERS

Eric Silverberg has moved to Dallas, Texas, as the court administrator for the Dallas Immigration Courts. Eric moved his family from Lancaster, California, and started in his new position August 11. ◆

PERFORMANCE WORKSHOP

SOURCE: *Briefly* – SEVENTH JUDICIAL DISTRICT, ROCHESTER, NY

Poor or mixed performance — i.e., problematic performance — presents a challenge to the supervisor. The supervisor’s goal is to stop and correct poor performance and to initiate new, positive behavior. But discussing performance problems isn’t easy, and many supervisors prefer to avoid it at all costs, even though that isn’t fair to the employee or the supervisor. Here are some steps that may make a difficult task somewhat easier:

1. **Consider your own motivation.** Does it stem from a desire to improve the effectiveness of the employee in your work unit?
2. **Plan how you will discuss performance problems.** Without a plan, you risk losing sight of the crucial issues and can produce more anxiety for the employee and yourself than is necessary.
3. **Do not guess at the employee’s reasons for poor performance.** Instead, before you “chastise” the employee, make an effort to classify and confirm the employee’s concept of his or her performance. Listen to the employee with an open mind and make adjustments based on your new understanding. Knowing how the employee views what you see as poor performance allows you to propose a more productive solution than the one you would have imposed had you not known the employee’s viewpoint.
4. **Discuss the performance problem, not the employee.** Do not imply that you are judging the employee, but rather address the negative behavior that needs to be changed.
5. **Clarify the results of the employee’s poor performance.** Employees want to know how their work is linked to the overall goals of the organization, and discussing the impact of poor performance is an obvious way to demonstrate a specific relationship.
6. **Offer specific examples.** Do not offer them as indictments but rather as ways of clarifying the problem.
7. **Use discussions to understand how perceptions about performance differ.** After the discussions, if you still believe a poor rating is required, maintain your rating and document your reasons.
8. **Clarify your standards for the employee and jointly develop new goals for the coming review period.** Expectations need to be clear as well as attainable.
9. **Clarify both the employee’s role in changing his or her performance and any support you will provide.** Let the employee know what responsibilities he or she has for changes, as well as any tangible activities that may facilitate this change (ie, a training course).
10. **Set a schedule to monitor and provide feedback to the employee in connection with the new goals.** Regular meetings to cite areas of improvement as well as areas needing continued attention are a good idea.
11. **Explore with the employee whether the plan for reaching goals will work.** This important step ensures that you have not prescribed an unrealistic plan or that the employee has not agreed too quickly, just to end a difficult discussion.
12. **Finally, clarify the consequences of continuing poor performance.** Because supervisors are apprehensive about their employees’ reactions, they may never directly inform an employee that poor performance can result in termination.

Failing to be explicit is doing an injustice to the employee, for it does not make the employee responsible for his or her own actions. It is also doing an injustice to the organization; failing to address poor performance can lower the motivation of other staff that are striving to succeed and are confused by the lack of intervention in a situation in which the need for intervention seems apparent. Clarifying the consequences of continued negative performances does not have to be done in a threatening way. Although giving negative feedback is difficult, receiving it is more difficult. It is important to choose your words carefully, using words that define the problem so as not to upset the employee unnecessarily.

(Adapted from “Advanced Supervisory Practices,” *Public Management*, August 1998, published by ICMA.)



WEB SITES HELP COURTS, PUBLIC IN HIGH-PROFILE CASES

SOURCE: *FEDERAL COURT MANAGEMENT REPORT*, MAY 2003

The most popular feature on the Internet Web site maintained by the U.S. District Court for the Eastern District of Virginia is the section devoted solely to the case of Zacarias Moussaoui, charged with conspiracy in the attacks of September 11, 2001.

In its first 11 months, the Web site's Moussaoui pages were viewed 350,000 times, twice as often as all of the site's other pages combined.

"Those were 350,000 requests for information the clerk's office did not have to handle in person or on the phone," said Edward Adams, the court's public information officer. "The Web site has allowed us to respond to requests for information without stealing the court's attention from other cases."

Using a Web site to help a court handle a high-profile case "can save your operations from being crippled and better satisfy requests in a timely and efficient manner," said James McCormack, clerk of the U.S. District Court of the Eastern District of Arkansas.

McCormack learned that lesson years ago, when Paula Jones's sexual harassment lawsuit against then-President Bill Clinton was pending in his court. In a peak seven-month period, the Arkansas Eastern District Web site registered more than 1.2 million hits from users nationwide and in 32 other countries.

What information typically is sought? Courts have included these online offerings for high-profile cases:

- All docket entries
- Case calendars
- Full text of pleadings
- All court orders and opinions except for those ordered sealed by the presiding judge
- Separate pages that explain how the public and news media may attend courtroom proceedings

Some courts also created listservs to alert news media members and other interested parties about new documents filed in a high-profile case.

District courts have not been alone in harnessing the Internet for such help.

Soon after appeals in the Microsoft antitrust case were filed in the Court of Appeals for the District of Columbia Circuit, clerk of the court Mark Langer recalls, "key concerns were press inquiries and public access to filings."

"Chief Judge (Harry) Edwards initiated planning, and Internet access to pleadings, orders, and notices

was made a top priority for the clerk's office and the automation staff," Langer said.

Help came from the administrative office, which granted use of the prototype CM/ECF program to access electronic versions of briefs and other filings. Court staffers then set up and maintained a Microsoft page on the Web site, with links prominently displayed on its home page.

"We received an enormous amount of positive feedback from the public, press, and practitioners," he said.

The Bankruptcy Court for the Southern District of New York found itself confronting not one, but two, of the nation's most notable cases when both Enron and WorldCom filed for bankruptcy protection. Web site sub links for both cases were created within a few days of their filings. Clerk of court Kathleen Farrell-Willoughby offered this summary:

- Both links were created by the court's automation department, and courtroom deputies monitor their respective content
- The presiding judge's courtroom deputy updates the Internet posted calendar for each case
- Debtors' attorneys provide the hearing agenda updates, which are put on the court's Web site only after they are approved by the court
- Links to the debtors' Web sites are provided by the court's automation department

Some aspects of the New York court's use of its Web site were modeled after what the bankruptcy court for the Northern District of California created when one of the nation's largest utilities, Pacific Gas and Electric, sought financial reorganization.

Franklin said presiding bankruptcy judge Dennis Montali "gave us the authority to make the Web site as effective a tool as possible for handling the onslaught."

But what about treating all cases equally?

"It's understandable for judges to say their high-profile case should be treated just as any other case," Adams said. "From their perspective, they're right. The measure of justice parties receive should not be determined by the amount of attention the media and public pay to a case.

"But elsewhere in the courthouse, it's a different story. The amount of scrutiny high-profile cases receive can severely tax the resources of the clerk's office. Deploying limited resources efficiently lets you

handle media issues related to the high-profile case without shortchanging the thousands of other cases on you docket. Posting case documents online is a sensible way to accomplish that goal," Adams said.

In the biggest of cases, investing the time to set up a special Web presence can yield big dividends. "The Internet affords us the chance to make our courthouse part of the virtual community, accessible to anyone in the world," McCormack said. "Communication through the Internet is the ideal opportunity for a court to perform in a way that enhances the court's reputation, strengthens public trust and confidence, and improves community relations."

Note: The effect of high profile cases on clerk's office resources was an important factor in the March 2002 decision of the Judicial Conference to modify its policy prohibiting remote pub-

lic access to criminal case files. The modified policy allows remote public access to criminal case file documents in cases where demand for copies places an unnecessary burden on the clerk's office, the parties have consented to such access, and the presiding judge finds such access is warranted by circumstances. It is anticipated that an instant PACER registration process will become available this fall to meet the need for quick access in high-profile cases without the loss of the free revenue necessary to maintain the remote public access systems. ♦

"Only the mediocre are always at their best"

— SOMERSET MAUGHAM, WRITER

Why Not Be More Imaginative About Fringe Benefits?, *Continued from page 3*

- Aggressively argue for the public benefit and cost savings associated with attracting and retaining good public servants. Then work with like-minded public agencies to change or loosen any prophylactic laws such as California's.
- Document the cost savings from improved productivity and lower turnover even after the costs of new programs. If you can't undertake or fund such a study in house, ask the research department of your local library or a local college class to search for analogous studies done for others.
- Proactively initiate new programs rather than "safely" following the executive branch.
- Survey staff about their needs, especially as they relate to the "sandwich" generation's problems, and develop programs that respond. Create and expand wellness programs beyond substance abuse and psychological counseling.
- Find room for a small inside exercise room where staff can use court-purchased treadmills, weights, and other low-impact exercise equipment and/or rest on sofas or cots, both during work hours and outside them. (Mid-day rest is becoming recognized as desirable for both employees and employers.)
- Review our thinking about people staying home while sick. Set an example by staying home yourself when you're ill.
- Expand, not contract, medical and dental insurance coverage. Establish a branch-wide program or collaborate with other government agencies and possibly even the private sector to provide medical care directly to employees.
- Reduce the work hours needed to obtain full medical benefits.
- Work with others to establish subsidized adult and child daycare facilities for staff. Review all jobs to find opportunities for part-time and shared work or even split-shift jobs. Create opportunities for telecommuting, even if just for part of a work week.
- Initiate lifetime training programs, including remedial schooling if your worker pool requires it, designed not only to train people for your work, but to enable some to leave the court better able to compete for jobs outside courts. Abandon the idea of lifetime employment in favor of lifetime skills. Helping employees to do better, even if they leave as a consequence, benefits, not hurts, employers. Minimize the use of on-the-job training conducted by a supervisor or someone who used to do that job.
- Replace the notion that all government employees are potential thieves requiring extraordinary controls to protect taxpayer money with an assumption that almost everyone is honest. We need rules, receipts, and accuracy checks, but some benefit increases (or responses to current fiscal needs) could be funded with the savings from changing the "everyone is a potential thief" approach. To avoid an "open sesame" for the few who will abuse this trust, however, regular in-depth, random audits are wise.

Many of these ideas involve additional funds. Increasing salaries to compete with the private sector and failing to fill positions are very expensive options, too. We can do nothing and fail to compete effectively or rethink what will allow us to get the skilled people needed.

Contact Alex Aikman at abaikman@Earthlink.net if you would like information on other issues of "Thinking Out Loud." ♦

position where he or she won't do much damage. Other managers are kept in their current positions but relieved of primary responsibilities. Some are terminated outright. With guidance, managers can get back on track. When organizations implement strategies toward improving performance, managers are much more likely to assess the full range of their management practices, understand the impact of their behavior, identify ways to shift ineffective practices, and make lasting changes in their performance. Organizations can help them in this process by doing the following:

- Identify specific management competencies, including interpersonal and technical factors.
- Collaborate with managers to create measurable goals and outcomes for success.
- Help managers create specific practices for development.
- Provide opportunities for managers to receive 360 degree feedback.
- Gauge the collective employee temperature by conducting employee opinion surveys.
- Observe managers in action in their day-to-day routine.
- Provide managers input from what is observed.
- Conduct routine sessions with managers to discuss progress, struggles, perceptions by stakeholders, and insights.
- Hold managers accountable for both interpersonal and technical performance.
- Provide resources by way of coaching, mentoring, training, and reference materials. ♦

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